

WORKER ADVOCACY ADVISORY COMMITTEE

U.S. DEPARTMENT OF ENERGY

PUBLIC MEETING MINUTES

Loews L'Enfant Plaza Hotel

Washington, DC

June 18-19, 2002

MEETING PARTICIPANTS

Committee Members Present:

Emily Spieler, Chair, West Virginia University
Ricky Blea, Labor Union
Leslie I. Boden, Boston University
John F. Burton, Jr., Rutgers University
Jeanne Cisco, Portsmouth Uranium Enrichment Plant
Donald Elisburg, Esq., Attorney
Kathryn Mueller, State of Colorado
Iris J. Post, Attorney
Glenn Shor, State of California
Gregory Wagner, National Institute for Occupational Safety and Health
Laura Welch, The Washington Hospital Center

Department of Energy Participants:

Steven Cary, Office of Worker Advocacy
Anne Catanzarite, Office of Worker Advocacy
Beverly Cook, Office of Environment, Safety and Health
Jeff Eagan, Office of Worker Advocacy
Kathy Grant, Office of Worker Advocacy
Judy Keating, Office of Worker Advocacy
Kate Kimpan, Office of Worker Advocacy
Alan Kindrick, Office of Environment, Safety and Health
John Shaw, Office of Environment, Safety and Health
Josh Silverman, Office of Worker Advocacy
Lori Williams-Johnson, Office of Worker Advocacy
Loretta Young, Office of Environment, Safety and Health
Mary Jo Zacchero, Office of Environment, Safety and Health

Other Participants:

Sarah Barial, Equal Employment Opportunity Commission
Meggan Cote, ASSE
Larry Elliott, National Institute of Occupational Safety and Health (via telephone)
Claudia Gangi, Department of Justice
Richard Miller, Government Accountability Project
Frank Morales, Government Accountability Project
Roberta Mosier, Department of Labor (via telephone)
Mark Olsen, Bechtel BWXT Idaho, LLC
Randy Rabinowitz, PACE
Julie Vore, Attorney

MEETING MINUTES

The Worker Advocacy Advisory Committee meeting on June 18, 2002, was called to order at 12:30 p.m. by Emily A. Spieler, Chair, and a roll call was conducted. Committee members in attendance included the following: Spieler, Blea, Boden, Burton, Cisco, Elisburg, Martinez, Mueller, Post, Shor, Wagner, and Welch.

Ms. Spieler noted that the purpose of the Workers Advocacy Advisory Committee is to advise the Department on workers' compensation and related policy matters regarding compensation for nuclear weapons industry employees, and particularly to advise DOE and the Office of Worker Advocacy with regard to the implementation of Subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA).

She noted that the committee had not met in almost a year. She indicated that the Final Physician Panel Rule (which specifies how DOE will implement EEOICPA Subtitle D) is undergoing additional revisions.

Assistant Secretary for Environment, Safety and Health, Beverly Cook, gave a presentation on Issues of Interest to the committee. Ms. Cook briefly discussed the physician panel rule, which is undergoing final review. Without providing specifics on the rule's provisions, she stated that many issues have been resolved. She said that the first task is to get the framework in place to move forward. She noted that there are a lot of implementation issues to be resolved, and that historical information at the sites is extremely important in trying to put in place a good occupational medicine program that is responsible for safety throughout the complex. She also noted it is important to keep up with national standards. A question and answer session followed Ms. Cook's presentation.

Larry Elliott provided a status report on EEOICPA implementation by the National Institute for Occupational Safety and Health (NIOSH). He noted that the dose reconstruction rule was published in May 2002 and is posted on the NIOSH/OCAS website. He noted that dose reconstruction methodology was described in the rule and implementation guidelines. He noted that there are 4,914 claims at NIOSH, that they have completed one of the dose reconstructions and have an additional 14 almost complete. He noted that NIOSH is also charged with providing appointments of physicians to the physicians panels, as well as providing staff support to the Advisory Board on Radiation and Worker Health.

Steve Cary, Acting Director of the DOE Office of Worker Advocacy, gave a presentation on the DOE Worker Advocacy Program. He discussed EEOICPA Subtitle D and stated that changes are needed in the existing electronic data systems, that they are creating a web-based data system with scanning, as well as an excellent tracking system. He introduced Claudia Beach, from DOE's Office of Health Studies. Ms. Beach is heading up

the claims processing office. Mr. Cary then outlined the work of Science and Engineering Associates, the primary contractor in processing claims. A question and answer period followed the presentation.

Claudia Gangi, from the Department of Justice (DOJ) Office of Radiation Exposure Compensation Act (RECA) then gave a presentation on RECA Program Status. She noted that DOJ has the smallest role in the EEOICPA Program but that they are actively assisting DOL with claims involving RECA claimants. DOJ has reviewed 3,512 claims for workers engaged in uranium mining. She noted that there is no backlog of claims at the Department of Justice.

During the Public Comment portion of the meeting, Richard Miller of the Government Accountability Project reviewed the Special Exposure Cohort Rule to be provided and discussed the situation with regard to letters going to Congress and resolution attempts.

The meeting was adjourned at 5:00 p.m. by Ms. Spieler, to reconvene on Wednesday, June 19, 2002, at 8:30 a.m.

The second day of the public meeting of the United States Department of Energy, Worker Advocacy Advisory Committee, was called to order by Ms. Spieler at 8:30 a.m. There was a brief recap of the previous day's meeting.

Ms. Spieler opened the meeting with a discussion of the first question to be addressed by the Committee, how claims are processed and administered. She also discussed the question of 'one-stop shopping' – i.e., having one central point of contact for both the DOL (federal claims) and DOE (state workers compensation claims). She mentioned the need for an ombudsman to assist claimants. There are a number of issues about payment methodologies, the best means to simplify the payment process, and the most efficient way to process claims, the existing payers and the payers' acceptance of claims, and to what extent this requires state agency involvement.

The committee then discussed performance evaluation and what kind of data are to be kept and reviewed. The committee then discussed the need to establish a subcommittee to deal with claims processing and subsequent physician panel questions and resolution of causation.

Les Boden discussed the Performance Evaluation issues. He noted that things have been on hold and that the subcommittee needs to review the template for information gathering as well as the specifics on the claims process. The subcommittee will share with the full committee any information provided by DOE. Assistant Secretary Beverly Cook

noted that adequacy, timeliness of the process, and cost effectiveness as important performance measures.

During the Path Forward/Next Meeting portion of the meeting, the discussion centered around the need for a subcommittee to deal with claims throughout the Office of Worker Advocacy, that the subcommittee should meet and continue to work on how to simplify and make the process work efficiently. The Performance Evaluation Subcommittee will start thinking about performance measures to put in place. The new subcommittee will look at claims issues, for instance, the impact that positive post-physician panel decisions will have on permanent partial disability and medical treatment issues. Ms. Spieler requested that committee members indicate their interest in participating and consult on how to proceed after the subcommittee is established. It was noted that the committee needs to wait for the congressional outcome on payment availability for non-payer claims and how to proceed with Contractor-Insurer Subcommittee.

It was pointed out that the State Agency Relations Subcommittee should meet after the Physician Panel Rule comes out, to discuss how to proceed.

Ms. Spieler requested that, in view of recent job changes by several WAAC members, the committee be re-briefed on ethical guidelines with regard to disclosure and voting.

It was mentioned that the Medical Panel Subcommittee should address the issue of permanent partial disability.

It was pointed out that the committee needs to take a careful look at DOE's communication letters to claimants, to assess their understandability and efficiency and effectiveness.

The committee discussed dates for the next committee meeting, possibly to be held in October. A poll will be taken of the committee members in order to determine the appropriate date and place for the next meeting of the committee.

The meeting was adjourned by Emily Spieler at 12:00 p.m. on June 19, 2002.